



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

The National Conference of State Legislatures has been tracking the “Universal Right to Vote by Mail Act of 2009” (HR 1604) sponsored by Rep. Susan Davis (D-CA). HR 1604 would require all states to provide no excuse absentee ballots by 2012. The bill states that if an individual in a state is eligible to cast a vote in an election for federal office the state may not impose any additional conditions or requirements on the eligibility of the individual to cast the vote such election by mail, except to the extent that the state imposes a deadline for requesting a ballot and related voting materials from the appropriate state or local election official. The proposed legislation also requires signature verification for absentee ballots.

NCSL conducted a survey of states that do not currently maintain a no-excuse absentee voting by mail system. The results, presented here, vary widely reflecting the unique solutions each state has created to reflect its own constituency. Legislators were eager to elaborate on how each state-established system addressed the state specific challenges. The following states would be preempted by HR 1604.

Responses to Proposed Legislation: “Universal Right to Vote By Mail Act”

State	Response
Alabama	Looked into this legislation, in 2008 no bills passed. County clerks, judges, Secretary of State and the legislature all have ideas as to how this should be done and are continuing to discuss what would be best for Alabama High cost of implementation is also a problem. In 2009, one bill was introduced and failed. This bill would have allowed any qualified elector to apply for absentee without stating a reason.
Connecticut	In 2008, this issue was offered as an amendment to another piece of legislation and it was tabled as both sides wanted to discuss it. In 2009, eleven bills were introduced relating to vote by mail, early voting, absentee voting, and no-excuse absentee voting. All failed.
Delaware	In 2008, several bills introduced in the House to reduce the burden on the voter via absentee ballots, but defeated in the Senate. Delaware Legislature is not supportive. In 2009, no legislation was introduced.
Illinois	IL has early voting which allows you to vote between 4 wks and the Friday before the election. After two years of this (early voting), the voters really like this process. The clerks in IL aren't clamoring for no-excuse absentee. NB - this is a democratic legislature. There is a concern about fraud and coercion - if there is fraud, it is through absentee voting according to the Cooke County clerk's office. 2-3 yrs. ago IL tried to pass a bill allowing over -65 yr. olds no excuse absentee and that narrow bill didn't even pass the IL House. It is

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	generally believed that early in-person voting meets the needs of IL's voters and assuages fraud concerns. In 2009, five bills regarding early voting were introduced. Four are pending. A bill eliminating in person absentee voting failed.
Kentucky	The Kentucky General Assembly has looked at "no excuse" absentee voting. However, the proposal was never enacted into law. Most of the opponents of no-excuse absentee voting have expressed concerns over the enhanced opportunities for casting multiple votes. Vote fraud is a continuing problem in certain parts of Kentucky. The proposed federal law would indeed preempt Kentucky's oversight of its own election system. KY has early voting. In 2009, six bills were introduced in Kentucky regarding early voting and absentee voting. All six failed.
Louisiana	LA has early voting which is viewed as sufficient. Has not considered relevant legislation recently on this issue. There is a concern about fraud given the state's colorful past, but anyone can vote no excuse in person early voting during the seven election days prior to the actual day of. In 2009, no bills were introduced on this issue.
Massachusetts	Constitution would need to be amended. Difficult to do; however in 2008 a bill was placed before the Joint House/Senate session in 2006-2007, but the debate over same-sex marriage derailed it which means proponents will had to start all over again in 2009. In 2009, nine bills were introduced regarding absentee no-excuse voting. All nine are currently pending.
Michigan	Use of optical scan machines has decreased the number of spoiled ballots. What spoiled ballots MI does have; however come from absentee ballots. Mailed in ballots do not give voters the second chance that they otherwise have when they actually go to the polls (voting machines let voters do this if ballot is miscast). Absentee ballots cause machine breakdowns because of the folds in the ballots. No evidence to document that no excuse absentee results in higher voter turnout. <u>See</u> Ford Carter and Ford Baker election reform reports. MI now requires photo ID at the polls. Voting by mail is seen as a way to avoid this requirement. There <u>is</u> evidence of fraud - In the city of Benton Harbor, an entire election was overturned by the court due to widespread voter fraud in absentee voting. There is no system in MI to assure absentee ballots are received and counted. MI legislature prefers and is looking to implement early in-person voting through bi-partisan legislation. In 2009, five bills were introduced and all are pending further action.
Minnesota	Has been looking at bills which incorporate no excuse absentee voting for 14 years. In 2007 legislative session, it was passed as part of a larger omnibus appropriations bill, but the Gov. vetoed the no excuse absentee portion on fraud and coercion grounds. Also the Gov. stated in his veto message that a fundamental aspect of fair elections is that they be conducted in the open and no excuse absentee mail in voting undermines that concept. There is early voting in MN. In 2009, twelve carry over bills addressing this issue; no action has yet been taken.
Mississippi	In 2008, a political argument involving fraud and gerrymandering has prevented any serious debate on the issue. In 2009, thirteen bills were introduced and each failed.
Missouri	Missouri law requires reasons for absentee voting. No early voting either. In 2009, ten bills were introduced allowing absentee or early voting. All of these bills failed.
New Hampshire	Best voting turnout in the country – why change it? Vote by mail – very unpopular idea in NH. Recently expanded the situations under which people may ask for absentee ballots (military, students, out of the precinct or disabled). NH looks at voting as a community experience. Face to face social interaction is invaluable. Also working to create a holiday for voting. Also, they resist early voting because information may be revealed just before the election – and those who vote by mail would be voting at a disadvantage (less informed). In 2009, two bills were introduced. Both failed.
New York	There is interest in streamlining the absentee ballot statute. NY's absentee ballot provisions are constitutionally mandated. Art. II of the NY Constitution requires that a person be physically ill or disabled or out of the county. It would take at least 2 yrs. to change the NY constitution. There is no interest in NY to amend. Instead, there is a bill in the drafting stages to remove the statutory burdens to absentee voting. In 2009, twenty-four bills were introduced. All are currently pending.

North Carolina	Passed legislation that established registration and one-stop voting sites. This allows NC voters to register and vote up to 3 days before election day at one stop voting sites and is in lieu of no excuse absentee. By requiring the voter to show up in person to register (and vote) the issue of fraud is addressed. Most telling is that in the elections of Oct. and Nov., 2007, voter participation increased. In 2009, one bill was introduced to improve absentee voting, especially with regards to military and overseas voters. This legislation is pending.
Pennsylvania	In 2008, there were no bills/votes on this issue. Opponents of the concept see it as an end-run around vote by mail (such as Oregon) and there is a strong feeling that one should show up at the polls to vote. Article VII Section 14 of the Constitution of the Commonwealth of Pennsylvania very specifically authorizes the use of an absentee ballot under certain circumstances. In 2009, six bills in this area are pending.
South Carolina	Currently requires excuses and pre-approval for absentee voting. Has passed a no excuse by mail absentee voting bill in the Senate for two sessions – held up in the house. The house generally does not support any early voting. In 2009, there are fifteen carry-over bills pending.
Tennessee	There is a bill proposed, HB 17 and SB 12 to do no excuse absentee, but it won't pass for several reasons. It's too expensive, TN already has no excuse early voting where the voter can show up between 20th and 5th day before election day to vote. 1.1 million voters voted early in the last election. The undercurrent in TN is that there is the potential for fraud, it is too expensive and there is an unwanted (by them) burden placed on clerks to count all of the mail-in ballots. In 2009, seven bills regarding absentee voting are pending.
Texas	There is no excuse absentee in TX because there is extended in person early voting (anywhere from 8 to 14 days prior to the election). Larger counties even have mobile early voting units. Clerks and election officials prefer early voting to no excuse absentee, as do the voters. 45% of the total democratic primary ballots were submitted during early voting. Evaluation of voter fraud by the state revealed that mail-in ballots are the major area of concern. There is super-precinct voting on election day as well. In 2009, six bills regarding absentee voting have failed. Two bills regarding early voting and no excuse absentee voting are pending.
Virginia	In the past Virginia has resisted efforts to liberalize absentee voting due to concerns about voter fraud and the additional costs that would be incurred by local Voter Registrars to support expanded absentee voting. VA does have early voting and experienced record turn out at the polls in 2008. In 2009, thirteen bills were introduced and failed. One bill which clarifies that the deadlines for having ballots ready for absentee voting passed.
West Virginia	Absentee voting by mail requires an excuse. Early voting (in person) 30 days before the election at county courthouse. Has increased voter turnout – small state, not many absentee voting, concerned about privacy. Cost would be difficult for state. Currently, 20% vote early in person. In 2009, four bills were introduced and failed. One bill which authorizes county commissions to designate early voting locations outside of the courthouse passed.

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